



Module 3: CERCLA and Other Laws

- CERCLA was designed to work in conjunction with other laws, but this leads to the need to integrate CERCLA on a site-specific basis with other programs.
- This module addresses some of the major interface issues

Objectives

- ❑ Identify the source of CERCLA clean-up standards
- ❑ Explain the relationship between CERCLA, RCRA and Federal Facility Agreements.

Main Framework

- ❑ CERCLA does not establish specific cleanup levels or standards
- ❑ Nor does it supersede other laws
- ❑ Rather, it works in conjunction with them
- ❑ CERCLA does require that response actions meet applicable or relevant and appropriate requirements (ARARs) of other environmental laws
- ❑ At Federal Facilities, CERCLA often “shares” authority with RCRA in directing what must be done

3

- Section 121 of CERCLA establishes statutory requirements for cleanups, but these are general mandates:
 - ▶ protect human health and the environment
 - ▶ use treatment to the maximum extent practicable
- The NCP sets forth processes to establish site-specific remedial action objectives and final cleanup goals.
- In some cases, other applicable or relevant and appropriate requirements set cleanup levels.

CERCLA and cleanup levels

- ❑ CERCLA requires “protection of human health and the environment”
- ❑ It also mandates “treatment to the maximum extent practicable”
- ❑ CERCLA does not mandate any specific approach to remediation (e.g., excavation vs. final in-place management)

4

- Generally, acceptable risk levels are risks of between 1×10^{-4} and 1×10^{-6} excess lifetime cumulative risk for contacting cancer or a hazard quotient of 1 for noncarcinogens.
- Can be higher risks (e.a., some ARARs are greater than 1×10^{-4} , some background concentrations of contaminants are higher than 1×10^{-4})
- Risk is based on a reasonable maximum exposure (RME) scenario.

CERCLA Does Not Supersede Other Laws - ARARs

- ❑ Requirements of other laws must be met during and after CERCLA actions under certain circumstances
- ❑ Example: Generating RCRA hazardous waste during a CERCLA action triggers appropriate RCRA requirements
- ❑ Challenge is to identify and understand implications of these other laws for CERCLA
- ❑ Substantial effort to manage/reduce impact of other laws where they are a disincentive for cleanup

5

- Early identification of potential ARARs is mandatory to ensure understanding of what activities may be regulated.
- States have authority to identify their laws and regulations that are ARARs.
- EPA has focused extensively in reform initiatives to tailor existing requirements to situation of cleanup. Meaning: Some State and Federal requirements can substantially increase cost of remediation.

“Shared” authorities for cleanup

- ❑ CERCLA is not a program delegated to the States or Indian tribes
- ❑ RCRA corrective action is, in many cases, delegated to States
- ❑ Both provide authority to compel cleanup for many of the wastes/substances found at Federal facilities
- ❑ There is no clear boundary when one applies over the other
- ❑ Federal Facility Agreements (or the equivalent) have become basis for sorting this out

6

- Attached Hanford TPA/ Savannah River Site FFA provide examples of how this legal coordination is established.

Module Summary

- ❑ CERCLA requires “protection of human health and environment” and mandates “treatment to the maximum extent practicable”
- ❑ CERCLA does not supersede other laws, rather, it works in conjunction with them
- ❑ At federal facilities, CERCLA and RCRA share responsibility of what must be done

Exercise 3: Pre-Scoping Exercise

- ❑ Immediately Following Lunch, the Pre-Scoping exercise will begin. As students return from lunch, they should begin working individually to complete the scoping exercise worksheet.
- ❑ Exercise Objective:
 - Familiarize students with the range of decisions that must be made when planning a CERCLA action